

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|------------------------------|---|------------------|
| UNITED STATES OF AMERICA, |) | CASE NO.: |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| MICHAEL D. HARRINGTON, M.D., |) | <u>COMPLAINT</u> |
| |) | |
| Defendant. |) | |

Plaintiff, the United States of America, by its undersigned counsel, alleges as follows:

JURISDICTION AND VENUE

1. This action is brought by the United States under the Controlled Substances Act (CSA), 21 U.S.C. §§ 801-971.
2. This Court has subject matter jurisdiction over the CSA claims under 21 U.S.C. §§ 842(c)(1)(A), and 28 U.S.C. §§ 1345 and 1335(a).
3. Venue is proper in the Northern District of Ohio as to the CSA claims under 28 U.S.C. § 1335(a) because Defendant is found in this district, and the claims accrued in this district.

PARTIES

4. Plaintiff is the United States of America.
5. Defendant Michael D. Harrington, M.D. is an Ohio resident. At all times relevant to this Complaint, Dr. Harrington was, and is currently, licensed to practice in Ohio as a doctor of

medicine. The American Board of Medical Specialties lists Dr. Harrington with the specialty of Internal Medicine, with the sub-specialties of Hospice and Palliative Medicine as well as Geriatric Medicine.

6. At all times relevant to this Complaint, Dr. Harrington has been employed by MetroHealth System.

THE CONTROLLED SUBSTANCES ACT

7. The CSA and its implementing regulations govern the manufacture, distribution, and dispensation of controlled substances in the United States. From the outset, Congress recognized the importance of preventing the diversion of drugs from legitimate to illegitimate uses. The CSA accordingly establishes a closed regulatory system under which it is unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.

8. The CSA categorizes controlled substances in five schedules.

9. Schedule II contains drugs with “a high potential for abuse” that “may lead to severe psychological or physical dependence” but nonetheless have “a currently accepted medical use in treatment.” 21 U.S.C. § 812(b)(2). The following drugs are currently listed in Schedule II:

- a. Oxycodone (with brand names including OxyContin and Percocet) (21 C.F.R. § 1308.12(b)(1)(xiii));
- b. Morphine (21 C.F.R. § 1308.12(b)(1)(ix));
- c. Oxymorphone (with brand names including Opana) (21 C.F.R. § 1308.12(b)(1)(xiv)); and
- d. Fentanyl (with brand names including Subsys) (21 C.F.R. § 1308.12(c)(9)).

10. The CSA requires those who dispense controlled substances, including physicians who issue prescriptions, to obtain a registration from the United States Drug Enforcement Administration (DEA). *See* 21 U.S.C. § 822(a)(2). A physician who receives a DEA registration may only dispense or distribute controlled substances “to the extent authorized by their registration and in conformity with” the CSA. 21 U.S.C. § 822(b).

11. A prescription for a controlled substance may only be dispensed by a practitioner who is: (1) authorized to prescribe controlled substances by the jurisdiction in which the practitioner is licensed; and (2) registered with DEA. 21 U.S.C. § 822(a)(2) and 21 C.F.R. § 1306.03(a).

12. Unless dispensed directly by a practitioner (other than a pharmacist) to an ultimate user, no Schedule II controlled substance may be dispensed without the prescription of a practitioner, such as a physician. 21 U.S.C. § 829(a).

13. A prescription (written or oral) is legally valid under the CSA only if issued for “*a legitimate medical purpose* by an individual practitioner *acting in the usual course of his professional practice.*” 21 C.F.R. § 1306.04(a) (emphases added). “An order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent” of 21 U.S.C. § 829 and “the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.”

Id.

14. “The responsibility for proper prescribing and dispensing of controlled substances is upon the prescribing practitioner.” 21 C.F.R. § 1306.04(a).

FACTS

15. At all times relevant to this Complaint, Dr. Harrington was registered with the DEA under registration number BH4642775. Dr. Harrington was, and currently is, employed as a physician at MetroHealth Main Campus Medical Center (MetroHealth).

16. Dr. Harrington prescribed opioid-based pain medication in high volumes to certain patients. The United States' allegations in this case arise from those patients. Certain examples are included below.

A. **PATIENT L.B.**

17. Patient L.B. was treated by Dr. Harrington beginning at least in 2009, and, in the outpatient setting, through 2016. Dr. Harrington was treating patient L.B. for lumbago, aseptic necrosis of hips and shoulders from prolonged steroid use, and spondylosis.

18. Dr. Harrington failed to conduct an appropriate opioid risk assessment of patient L.B., and Dr. Harrington continued to increase the levels of opioids he prescribed to L.B. even after the patient, in 2010, had multiple overdoses and an arrest for operating a vehicle while impaired. In 2012, L.B. went to the MetroHealth emergency department seeking additional pain medication, and there is no record that Dr. Harrington discussed this drug-seeking behavior with L.B.

19. Dr. Harrington prescribed multiple high-dose opioid prescriptions to L.B. at the same time, and provided new prescriptions to L.B. when requested.

20. A chart with examples of Dr. Harrington's prescriptions to L.B. is below:

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 04/07/2014 | OXYCONTIN | 30 | 450 |
| 04/21/2014 | OXYCODONE HCL | 22 | 720 |
| 05/16/2014 | OXYCODONE HCL | 30 | 720 |
| 05/16/2014 | OXYCONTIN | 30 | 360 |
| 05/30/2014 | OXYCODONE HCL | 30 | 720 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 05/30/2014 | OXYCONTIN | 30 | 450 |
| 06/20/2014 | OXYCODONE HCL | 23 | 720 |
| 06/26/2014 | OXYCONTIN | 30 | 450 |
| 07/09/2014 | OXYCODONE HCL | 22 | 720 |
| 07/28/2014 | OXYCODONE HCL | 23 | 720 |
| 08/13/2014 | OXYCONTIN | 30 | 450 |
| 08/14/2014 | OXYCODONE HCL | 22 | 720 |
| 09/01/2014 | OXYCODONE HCL | 23 | 720 |
| 09/09/2014 | OXYCONTIN | 30 | 450 |
| 09/21/2014 | OXYCODONE HCL | 23 | 720 |
| 10/01/2014 | OXYCONTIN | 30 | 450 |
| 10/12/2014 | OXYCODONE HCL | 23 | 720 |
| 11/01/2014 | OXYCODONE HCL | 23 | 720 |
| 11/04/2014 | OXYCONTIN | 14 | 203 |
| 11/15/2014 | OXYCONTIN | 30 | 360 |
| 11/20/2014 | OXYCODONE HCL | 22 | 720 |
| 12/05/2014 | OXYCODONE HCL | 840 | 840 |
| 12/05/2014 | OXYCONTIN | 30 | 360 |
| 12/23/2014 | OXYCONTIN | 24 | 360 |
| 12/23/2014 | OXYCODONE HCL | 27 | 500 |
| 01/05/2015 | OXYCODONE HCL | 30 | 720 |
| 01/05/2015 | OXYCONTIN | 30 | 270 |
| 01/23/2015 | OXYCONTIN | 30 | 360 |
| 01/27/2015 | OXYCODONE HCL | 23 | 720 |
| 02/16/2015 | OXYCODONE HCL | 23 | 720 |
| 02/20/2015 | OXYCONTIN | 30 | 360 |
| 03/10/2015 | OXYCODONE HCL | 23 | 720 |
| 03/20/2015 | OXYCONTIN | 29 | 350 |
| 03/30/2015 | OXYCODONE HCL | 23 | 720 |
| 04/17/2015 | OXYCODONE HCL | 23 | 720 |
| 04/21/2015 | OXYCONTIN | 30 | 360 |
| 05/21/2015 | OXYCONTIN | 30 | 360 |
| 06/01/2015 | OXYCODONE HCL | 30 | 720 |
| 06/17/2015 | OXYCONTIN | 30 | 360 |
| 06/18/2015 | OXYCODONE HCL | 23 | 720 |
| 07/13/2015 | OXYCODONE HCL | 23 | 720 |
| 07/17/2015 | OXYCONTIN | 30 | 270 |
| 08/04/2015 | OXYCODONE HCL | 17 | 525 |
| 08/14/2015 | OXYCONTIN | 30 | 270 |
| 08/17/2015 | OXYCODONE HCL | 23 | 720 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 09/03/2015 | OXYCODONE HCL | 10 | 300 |
| 09/06/2015 | OXYCONTIN | 15 | 135 |
| 09/18/2015 | OXYCONTIN | 19 | 169 |
| 09/18/2015 | OXYCODONE HCL | 30 | 600 |
| 10/02/2015 | OXYCONTIN | 12 | 100 |
| 10/16/2015 | OXYCONTIN | 30 | 270 |
| 10/16/2015 | OXYCODONE HCL | 30 | 600 |
| 11/13/2015 | OXYCONTIN | 30 | 180 |
| 11/13/2015 | OXYCODONE HCL | 30 | 300 |
| 12/03/2015 | OXYCODONE HCL | 30 | 360 |
| 12/11/2015 | OXYCONTIN | 30 | 180 |
| 12/28/2015 | OXYCODONE HCL | 30 | 360 |
| 12/29/2015 | OXYCONTIN | 30 | 210 |
| 01/19/2016 | OXYCONTIN | 30 | 210 |
| 02/04/2016 | OXYCODONE HCL | 17 | 390 |
| 02/16/2016 | OXYCONTIN | 30 | 210 |
| 02/29/2016 | OXYCODONE HCL | 17 | 390 |
| 03/09/2016 | OXYCONTIN | 30 | 210 |
| 03/18/2016 | OXYCODONE HCL | 16 | 390 |
| 03/31/2016 | OXYCODONE HCL | 16 | 390 |
| 04/06/2016 | OXYCONTIN | 30 | 210 |
| 04/15/2016 | OXYCODONE HCL | 16 | 390 |
| 05/01/2016 | OXYCODONE HCL | 16 | 390 |
| 05/03/2016 | OXYCONTIN | 30 | 210 |
| 05/13/2016 | OXYCODONE HCL | 17 | 390 |
| 05/13/2016 | MORPHINE SULFATE ER | 30 | 90 |
| 05/27/2016 | MORPHINE SULFATE ER | 15 | 90 |
| 05/27/2016 | OXYCODONE HCL | 16 | 390 |
| 06/07/2016 | MORPHINE SULFATE ER | 30 | 210 |
| 06/10/2016 | OXYCODONE HCL | 17 | 390 |
| 06/24/2016 | OXYCODONE HCL | 16 | 390 |
| 06/29/2016 | OXYCONTIN | 30 | 210 |
| 07/09/2016 | OXYCODONE HCL | 16 | 390 |
| 07/22/2016 | MORPHINE SULFATE ER | 14 | 100 |
| 07/22/2016 | OXYCODONE HCL | 16 | 390 |
| 07/30/2016 | MORPHINE SULFATE ER | 30 | 270 |
| 08/08/2016 | OXYCODONE HCL | 16 | 390 |
| 08/12/2016 | OXYCONTIN | 30 | 210 |
| 08/25/2016 | OXYCODONE HCL | 16 | 390 |
| 09/09/2016 | OXYCONTIN | 30 | 210 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 09/09/2016 | OXYCODONE HCL | 16 | 390 |

21. Each of the controlled substances listed in the chart above is a prescription drug under the Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. § 353(b)(1). These prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice, in violation of 21 U.S.C. §§ 829, 842(a)(1) and 21 C.F.R. § 1306.04(a).

B. PATIENT J.B.

22. Patient J.B., a paraplegic, was treated by Dr. Harrington beginning at least in 2010, and, in the outpatient setting, through at least 2017. Before Dr. Harrington began treating patient J.B., the medical record, to which Dr. Harrington had access, included a note from an earlier provider that the patient regularly requested early prescriptions of opioid medication. This earlier provider stated that he refused to authorize early fills to patient's insurance and noted that the patient "is probably lying."

23. Despite this notation in the file, Dr. Harrington failed to conduct an appropriate opioid risk assessment of patient J.B., and there is no indication that Dr. Harrington took any other steps to control or monitor J.B.'s opioid usage. The first three prescriptions that Dr. Harrington wrote for J.B. are filled earlier than anticipated.

24. Dr. Harrington prescribed multiple high-dose opioid prescriptions to J.B. at the same time, and provided new prescriptions to J.B. when requested.

25. A chart with examples of Dr. Harrington's prescriptions to J.B. is below:

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|---------------------------|-------------|-----------------|
| 04/11/2014 | OXYCODONE HCL | 30 | 180 |
| 04/23/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 05/07/2014 | OXYCODONE HCL | 30 | 180 |
| 05/20/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|---------------------------|-------------|-----------------|
| 06/04/2014 | OXYCODONE HCL | 30 | 180 |
| 06/16/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 07/13/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 07/28/2014 | OXYCODONE HCL | 30 | 180 |
| 08/09/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 08/25/2014 | OXYCODONE HCL | 30 | 180 |
| 09/05/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 09/22/2014 | OXYCODONE HCL | 30 | 180 |
| 10/19/2014 | OXYCODONE HCL | 30 | 180 |
| 10/20/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 11/15/2014 | OXYCODONE HCL | 30 | 180 |
| 11/16/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 12/12/2014 | OXYCODONE HCL | 30 | 180 |
| 12/13/2014 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 01/08/2015 | OXYCODONE HCL | 22 | 180 |
| 01/09/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 02/04/2015 | OXYCODONE HCL | 30 | 180 |
| 02/05/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 03/03/2015 | OXYCODONE HCL | 30 | 180 |
| 03/04/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 03/30/2015 | OXYCODONE HCL | 30 | 180 |
| 03/31/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 04/26/2015 | OXYCODONE HCL | 30 | 180 |
| 04/27/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 05/21/2015 | OXYCODONE HCL | 30 | 180 |
| 05/24/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 06/18/2015 | OXYCODONE HCL | 30 | 180 |
| 06/18/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 07/16/2015 | OXYCODONE HCL | 30 | 180 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|---------------------------|-------------|-----------------|
| 07/17/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 08/12/2015 | OXYCODONE HCL | 30 | 180 |
| 08/13/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 09/08/2015 | OXYCODONE HCL | 30 | 180 |
| 09/09/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 10/04/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 10/05/2015 | OXYCODONE HCL | 30 | 180 |
| 10/30/2015 | OXYCODONE HCL | 30 | 180 |
| 10/30/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 11/28/2015 | OXYCODONE HCL | 30 | 180 |
| 11/29/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 12/26/2015 | OXYCODONE HCL | 30 | 180 |
| 12/26/2015 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 01/22/2016 | OXYCODONE HCL | 22 | 180 |
| 01/22/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 02/18/2016 | OXYCODONE HCL | 30 | 180 |
| 02/18/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 03/16/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 03/16/2016 | OXYCODONE HCL | 8 | 180 |
| 04/08/2016 | OXYCODONE HCL | 30 | 180 |
| 04/12/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 05/09/2016 | OXYCODONE HCL | 30 | 180 |
| 05/09/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 06/01/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 06/02/2016 | OXYCODONE HCL | 30 | 180 |
| 07/02/2016 | OXYCODONE HCL | 30 | 180 |
| 07/02/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 07/27/2016 | OXYCODONE HCL | 30 | 180 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|---------------------------|-------------|-----------------|
| 07/29/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 08/21/2016 | OXYCODONE HCL | 30 | 180 |
| 08/21/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 09/21/2016 | OXYCODONE HCL | 30 | 180 |
| 09/21/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 10/11/2016 | OXYCODONE HCL | 22 | 180 |
| 10/14/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 11/11/2016 | OXYCODONE HCL | 22 | 180 |
| 11/11/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 12/09/2016 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 12/09/2016 | OXYCODONE HCL | 22 | 180 |
| 01/03/2017 | OXYCODONE HCL | 22 | 180 |
| 01/03/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 02/03/2017 | OXYCODONE HCL | 23 | 180 |
| 02/03/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 03/02/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 03/02/2017 | OXYCODONE HCL | 23 | 180 |
| 04/24/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 04/26/2017 | OXYCODONE HCL | 23 | 180 |
| 05/18/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 05/18/2017 | OXYCODONE HCL | 23 | 180 |
| 06/17/2017 | OXYCODONE HCL | 23 | 180 |
| 06/17/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 07/12/2017 | OXYCODONE HCL | 30 | 180 |
| 07/13/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 08/14/2017 | OXYCODONE HCL | 30 | 180 |
| 08/14/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |
| 09/14/2017 | OXYMORPHONE HYDROCHLORIDE | 30 | 300 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 09/14/2017 | OXYCODONE HCL | 30 | 180 |

26. Each of the controlled substances listed in the chart above is a prescription drug under the FDCA. These prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice, in violation of 21 U.S.C. §§ 829, 842(a)(1) and 21 C.F.R. § 1306.04(a).

C. PATIENT B.S.

27. Patient B.S. was treated by Dr. Harrington from 2016 through 2017. Patient B.S. had advanced Crohn's disease with chronic pain, and previously had been in an automobile accident in which she had suffered injuries. Prior to treatment by Dr. Harrington, patient B.S. had presented to the MetroHealth emergency department for pain management many times.

28. The first time that Dr. Harrington prescribed opioids to B.S., which was in the hospital setting, he failed to conduct an appropriate opioid risk assessment.

29. Dr. Harrington then saw patient B.S. in the outpatient setting beginning in February, 2017. At the first office visit, Dr. Harrington prescribed opioids to B.S. without conducting an opioid risk review, checking the Ohio Automated Rx Reporting System to determine whether B.S. was on any other medications, or conducting a urine drug screen.

30. During the entire course of Dr. Harrington's treatment of patient B.S., there is no improvement in the patient's condition.

31. A chart with examples of Dr. Harrington's prescriptions to B.S. is below:

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 02/01/2017 | HYDROMORPHONE HCL | 11 | 100 |
| 02/07/2017 | FENTANYL | 30 | 10 |
| 03/06/2017 | FENTANYL | 30 | 10 |
| 05/31/2017 | HYDROMORPHONE HCL | 12 | 100 |
| 05/31/2017 | FENTANYL | 30 | 10 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 06/26/2017 | FENTANYL | 30 | 10 |
| 06/26/2017 | HYDROMORPHONE HCL | 12 | 100 |
| 07/24/2017 | HYDROMORPHONE HCL | 12 | 100 |
| 07/31/2017 | FENTANYL | 30 | 10 |

32. Each of the controlled substances listed in the chart above is a prescription drug under the FDCA. These prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice, in violation of 21 U.S.C. §§ 829, 842(a)(1) and 21 C.F.R. § 1306.04(a).

D. PATIENT R.W.

33. Dr. Harrington began treating patient R.W. in 2010, and continued through at least 2017. Patient R.W. had Crohn's disease. Prior to treatment by Dr. Harrington, patient R.W. had been treated by other MetroHealth providers.

34. Dr. Harrington never conducted a urine drug screen of patient R.W. and never conducted a risk assessment, despite a past medical history that indicated multiple prescribers and potential diversion of controlled substances.

35. Patient R.W.'s pharmacy contacted Dr. Harrington about duplicative opioid therapies, and he did not change his prescribing practices in any way.

36. A chart with examples of Dr. Harrington's prescriptions to R.W. is below:

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 09/13/2016 | OXYCODONE HCL | 13 | 75 |
| 09/28/2016 | OXYCONTIN | 29 | 59 |
| 10/05/2016 | OXYCODONE HCL | 17 | 100 |
| 10/21/2016 | OXYCODONE HCL | 17 | 100 |
| 10/27/2016 | OXYCONTIN | 30 | 60 |
| 11/22/2016 | OXYCODONE HCL | 17 | 100 |
| 11/28/2016 | OXYCONTIN | 30 | 60 |
| 11/30/2016 | OXYCODONE HCL | 17 | 100 |
| 12/16/2016 | OXYCODONE HCL | 17 | 100 |
| 12/29/2016 | OXYCONTIN | 30 | 60 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 01/20/2017 | OXYCODONE HCL | 16 | 100 |
| 02/01/2017 | OXYCONTIN | 30 | 60 |
| 02/07/2017 | OXYCODONE HCL | 17 | 100 |
| 03/03/2017 | OXYCONTIN | 30 | 60 |
| 03/06/2017 | HYDROMORPHONE HCL | 16 | 100 |
| 03/31/2017 | OXYCONTIN | 30 | 60 |
| 04/06/2017 | HYDROMORPHONE HCL | 16 | 100 |
| 04/21/2017 | HYDROMORPHONE HCL | 16 | 100 |
| 05/02/2017 | OXYCONTIN | 30 | 60 |
| 05/05/2017 | HYDROMORPHONE HCL | 16 | 100 |
| 05/22/2017 | HYDROMORPHONE HCL | 16 | 100 |
| 06/01/2017 | OXYCONTIN | 30 | 60 |
| 06/07/2017 | HYDROMORPHONE HCL | 17 | 100 |
| 06/23/2017 | HYDROMORPHONE HCL | 16 | 100 |
| 08/04/2017 | HYDROMORPHONE HCL | 17 | 100 |
| 08/18/2017 | OXYCONTIN | 30 | 60 |
| 08/21/2017 | HYDROMORPHONE HCL | 17 | 100 |
| 09/07/2017 | HYDROMORPHONE HCL | 17 | 100 |
| 09/20/2017 | OXYCONTIN | 30 | 60 |
| 09/25/2017 | HYDROMORPHONE HCL | 17 | 100 |

37. Each of the controlled substances listed in the chart above is a prescription drug under the FDCA. These prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice, in violation of 21 U.S.C. §§ 829, 842(a)(1) and 21 C.F.R. § 1306.04(a).

E. PATIENT P.Z.

38. Dr. Harrington began treating patient P.Z. in 2010, and continued through at least 2017. It is not clear from patient P.Z.'s medical record what diagnosis Dr. Harrington is using to support the opioid prescriptions to the patient. Initially, he indicates P.Z. has symptoms of bilateral abdominal pain, which is not a diagnosis. Later, patient has a diagnosis of knee pain, but there is no evidence in the medical record that Dr. Harrington ever conducted a physical exam to establish the cause of P.Z.'s knee pain.

39. Dr. Harrington never conducted a urine drug screen of patient P.Z., despite a notation in the medical record that P.Z. should have a urine drug screen and multiple prescriptions are filled for P.Z. earlier than anticipated.

40. A chart with examples of Dr. Harrington's prescriptions to P.Z. is below:

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 04/21/2014 | OXYCODONE HCL | 19 | 150 |
| 04/23/2014 | OXYCONTIN | 30 | 90 |
| 04/30/2014 | METHADONE HCL | 30 | 90 |
| 05/20/2014 | OXYCONTIN | 30 | 90 |
| 05/22/2014 | OXYCODONE HCL | 19 | 150 |
| 06/13/2014 | OXYCODONE HCL | 10 | 150 |
| 06/16/2014 | OXYCONTIN | 30 | 90 |
| 06/24/2014 | OXYCODONE HCL | 11 | 150 |
| 07/11/2014 | OXYCODONE HCL | 10 | 150 |
| 07/13/2014 | OXYCONTIN | 30 | 90 |
| 07/23/2014 | OXYCODONE HCL | 10 | 150 |
| 08/11/2014 | OXYCONTIN | 30 | 90 |
| 08/12/2014 | OXYCODONE HCL | 16 | 150 |
| 08/30/2014 | OXYCODONE HCL | 10 | 150 |
| 09/10/2014 | OXYCONTIN | 30 | 90 |
| 09/16/2014 | OXYCODONE HCL | 12 | 150 |
| 09/26/2014 | OXYCODONE HCL | 10 | 150 |
| 10/07/2014 | OXYCONTIN | 30 | 90 |
| 10/13/2014 | OXYCODONE HCL | 10 | 150 |
| 10/23/2014 | OXYCODONE HCL | 13 | 150 |
| 11/01/2014 | OXYCODONE HCL | 10 | 150 |
| 11/03/2014 | OXYCONTIN | 30 | 90 |
| 11/20/2014 | OXYCODONE HCL | 10 | 150 |
| 11/30/2014 | OXYCONTIN | 30 | 90 |
| 12/03/2014 | OXYCODONE HCL | 10 | 150 |
| 12/21/2014 | OXYCODONE HCL | 10 | 150 |
| 12/28/2014 | OXYCONTIN | 30 | 90 |
| 01/18/2015 | OXYCODONE HCL | 10 | 150 |
| 01/23/2015 | OXYCONTIN | 30 | 90 |
| 01/29/2015 | OXYCODONE HCL | 14 | 150 |
| 02/10/2015 | OXYCODONE HCL | 10 | 150 |
| 02/21/2015 | OXYCONTIN | 30 | 90 |
| 02/25/2015 | OXYCODONE HCL | 10 | 150 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 03/23/2015 | OXYCODONE HCL | 10 | 150 |
| 04/03/2015 | OXYCODONE HCL | 10 | 150 |
| 04/03/2015 | OXYCONTIN | 30 | 90 |
| 04/16/2015 | OXYCODONE HCL | 10 | 150 |
| 04/27/2015 | OXYCODONE HCL | 16 | 150 |
| 05/08/2015 | OXYCONTIN | 30 | 90 |
| 05/11/2015 | OXYCODONE HCL | 10 | 150 |
| 05/24/2015 | OXYCODONE HCL | 15 | 150 |
| 06/19/2015 | OXYCODONE HCL | 15 | 150 |
| 07/01/2015 | OXYCONTIN | 30 | 90 |
| 07/03/2015 | OXYCODONE HCL | 15 | 150 |
| 07/16/2015 | OXYCODONE HCL | 15 | 150 |
| 07/28/2015 | OXYCONTIN | 30 | 90 |
| 07/31/2015 | OXYCODONE HCL | 15 | 150 |
| 08/13/2015 | OXYCODONE HCL | 15 | 150 |
| 09/08/2015 | OXYCODONE HCL | 15 | 150 |
| 09/20/2015 | OXYCONTIN | 30 | 90 |
| 09/21/2015 | OXYCODONE HCL | 15 | 150 |
| 09/28/2015 | HYDROMORPHONE HCL | 30 | 150 |
| 10/05/2015 | OXYCODONE HCL | 15 | 150 |
| 10/17/2015 | OXYCONTIN | 30 | 90 |
| 10/26/2015 | OXYCODONE HCL | 15 | 150 |
| 11/08/2015 | OXYCODONE HCL | 15 | 150 |
| 11/13/2015 | OXYCONTIN | 30 | 90 |
| 11/22/2015 | OXYCODONE HCL | 15 | 150 |
| 12/05/2015 | OXYCODONE HCL | 15 | 150 |
| 12/10/2015 | OXYCONTIN | 30 | 90 |
| 12/18/2015 | OXYCODONE HCL | 15 | 150 |
| 12/31/2015 | OXYCODONE HCL | 15 | 150 |
| 01/06/2016 | OXYCONTIN | 30 | 90 |
| 01/15/2016 | OXYCODONE HCL | 15 | 150 |
| 01/28/2016 | OXYCODONE HCL | 15 | 150 |
| 02/02/2016 | OXYCONTIN | 30 | 90 |
| 02/11/2016 | OXYCODONE HCL | 15 | 150 |
| 02/24/2016 | OXYCODONE HCL | 15 | 150 |
| 02/29/2016 | OXYCONTIN | 30 | 90 |
| 03/08/2016 | OXYCODONE HCL | 15 | 150 |
| 03/21/2016 | OXYCODONE HCL | 15 | 150 |
| 03/26/2016 | OXYCONTIN | 30 | 90 |
| 04/04/2016 | OXYCODONE HCL | 15 | 150 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 04/20/2016 | OXYCODONE HCL | 15 | 150 |
| 04/26/2016 | OXYCONTIN | 30 | 90 |
| 05/04/2016 | OXYCODONE HCL | 18 | 150 |
| 05/10/2016 | OXYCODONE HCL | 15 | 90 |
| 05/20/2016 | OXYCODONE HCL | 18 | 150 |
| 05/24/2016 | OXYCONTIN | 30 | 90 |
| 06/05/2016 | OXYCODONE HCL | 18 | 150 |
| 06/20/2016 | OXYCODONE HCL | 18 | 150 |
| 06/23/2016 | OXYCONTIN | 30 | 90 |
| 07/06/2016 | OXYCODONE HCL | 15 | 150 |
| 07/19/2016 | OXYCODONE HCL | 15 | 150 |
| 07/20/2016 | OXYCONTIN | 30 | 90 |
| 08/02/2016 | OXYCODONE HCL | 30 | 150 |
| 08/16/2016 | OXYCONTIN | 30 | 90 |
| 08/16/2016 | OXYCODONE HCL | 15 | 150 |
| 08/30/2016 | OXYCODONE HCL | 15 | 150 |
| 09/12/2016 | OXYCODONE HCL | 15 | 150 |
| 09/13/2016 | OXYCONTIN | 30 | 90 |
| 09/25/2016 | OXYCODONE HCL | 15 | 150 |
| 10/07/2016 | OXYCODONE HCL | 15 | 150 |
| 10/07/2016 | OXYCONTIN | 30 | 30 |
| 10/10/2016 | OXYCONTIN | 30 | 60 |
| 10/22/2016 | OXYCODONE HCL | 15 | 150 |
| 10/28/2016 | OXYCONTIN | 30 | 60 |
| 10/28/2016 | OXYCONTIN | 30 | 30 |
| 11/17/2016 | OXYCODONE HCL | 15 | 150 |
| 11/25/2016 | OXYCONTIN | 30 | 30 |
| 11/25/2016 | OXYCONTIN | 30 | 60 |
| 12/02/2016 | OXYCODONE HCL | 15 | 150 |
| 12/16/2016 | OXYCODONE HCL | 15 | 150 |
| 12/22/2016 | OXYCONTIN | 30 | 60 |
| 12/22/2016 | OXYCONTIN | 30 | 30 |
| 12/30/2016 | OXYCODONE HCL | 15 | 150 |
| 01/16/2017 | OXYCODONE HCL | 15 | 150 |
| 01/20/2017 | OXYCONTIN | 30 | 30 |
| 01/20/2017 | OXYCONTIN | 30 | 60 |
| 01/30/2017 | OXYCODONE HCL | 9 | 150 |
| 02/15/2017 | OXYCODONE HCL | 15 | 150 |
| 02/16/2017 | OXYCONTIN | 30 | 30 |
| 02/16/2017 | OXYCONTIN | 30 | 60 |

| Date | Prescription Drug Name | Days Supply | Units Dispensed |
|------------|------------------------|-------------|-----------------|
| 03/02/2017 | OXYCODONE HCL | 15 | 150 |
| 03/15/2017 | OXYCONTIN | 30 | 60 |
| 03/15/2017 | OXYCONTIN | 30 | 30 |
| 03/17/2017 | OXYCODONE HCL | 15 | 150 |
| 04/01/2017 | OXYCODONE HCL | 15 | 150 |
| 04/14/2017 | OXYCODONE HCL | 15 | 150 |
| 04/14/2017 | OXYCONTIN | 30 | 30 |
| 04/14/2017 | OXYCONTIN | 30 | 60 |
| 04/28/2017 | OXYCODONE HCL | 15 | 150 |
| 05/11/2017 | OXYCONTIN | 30 | 30 |
| 05/12/2017 | OXYCONTIN | 30 | 60 |
| 05/14/2017 | OXYCODONE HCL | 15 | 150 |
| 05/26/2017 | OXYCODONE HCL | 15 | 145 |
| 06/08/2017 | OXYCONTIN | 30 | 30 |
| 06/10/2017 | OXYCONTIN | 30 | 60 |
| 06/10/2017 | OXYCODONE HCL | 15 | 140 |
| 06/23/2017 | OXYCODONE HCL | 15 | 130 |
| 08/03/2017 | OXYCONTIN | 30 | 60 |
| 08/03/2017 | OXYCONTIN | 30 | 30 |
| 08/03/2017 | OXYCODONE HCL | 15 | 125 |
| 08/18/2017 | OXYCODONE HCL | 15 | 125 |
| 08/30/2017 | OXYCODONE HCL | 15 | 125 |
| 09/01/2017 | OXYCONTIN | 30 | 30 |
| 09/01/2017 | OXYCONTIN | 30 | 30 |
| 09/14/2017 | OXYCODONE HCL | 15 | 125 |

41. Each of the controlled substances listed in the chart above is a prescription drug under the FDCA. These prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice, in violation of 21 U.S.C. §§ 829, 842(a)(1) and 21 C.F.R. § 1306.04(a).

Count I

Unlawful Prescribing of Controlled Substances: 21 U.S.C. §§ 829, 842(a)(1), 842(c)(1)(A) Civil Penalties

1. The United States repeats and realleges Paragraphs 1 through 41 as if fully set forth herein.

2. Defendant Dr. Harrington issued prescriptions without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. §§ 829(a), and 842(a)(1) and 21 C.F.R. § 1306.04.

3. As a result of the foregoing, Defendant Dr. Harrington is liable to the United States for a civil penalty in the amount of not more than \$25,000 for each violation occurring on or before November 2, 2015 and \$64,820 for each violation after November 2, 2015, pursuant to 21 U.S.C. § 842(c)(1)(A) and 28 C.F.R. § 85.5.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that judgment be entered in its favor and against Defendant as follows:

A. Impose a civil penalty on Defendant of not more than \$25,000, for each violation occurring on or before November 2, 2015, and not more than \$64,820, for each violation after November 2, 2015, for each and every violation of 21 U.S.C. §§ 829(a) and 842(a)(1) and 21 C.F.R. § 1306.04.

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

By: /s/ Patricia M. Fitzgerald
Patricia M. Fitzgerald (PA: 308973)
David M. DeVito (CA: 243695)
Assistant United States Attorneys
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3779/3818
(216) 522-2404 (facsimile)
Patricia.Fitzgerald2@usdoj.gov
David.DeVito@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Patricia M. Fitzgerald, Assistant U.S. Attorney Ph: (216) 622-3779
 801 W. Superior Ave., Suite 400, Cleveland, OH 44113

DEFENDANTS

Michael D. Harrington, M.D.

County of Residence of First Listed Defendant Cuyahoga
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
 THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
 Terry Brennan Ph: (216) 861-7485
 Firm: Baker Hostetler
 Key Tower, 127 Public Square, Suite 2000, Cleveland, OH 44114

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions](#).

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|---|
| <input type="checkbox"/> 110 Insurance | PERSONAL INJURY | PERSONAL INJURY | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 375 False Claims Act |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 365 Personal Injury - Product Liability | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability | | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 330 Federal Employers' Liability | | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 345 Marine Product Liability | | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 370 Other Fraud | | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 371 Truth in Lending | | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 380 Other Personal Property Damage | | <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) |
| <input type="checkbox"/> 190 Other Contract | | <input type="checkbox"/> 385 Property Damage Product Liability | | <input type="checkbox"/> 485 Telephone Consumer Protection Act |
| <input type="checkbox"/> 195 Contract Product Liability | | | | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 196 Franchise | | | | <input type="checkbox"/> 850 Securities/Commodities/ Exchange |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | SOCIAL SECURITY | <input checked="" type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 440 Other Civil Rights | Habeas Corpus: | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 463 Alien Detainee | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 443 Housing/ Accommodations | <input type="checkbox"/> 530 General | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 896 Arbitration |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | Other: | | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| | <input type="checkbox"/> 448 Education | <input type="checkbox"/> 540 Mandamus & Other | | |
| | | <input type="checkbox"/> 550 Civil Rights | | |
| | | <input type="checkbox"/> 555 Prison Condition | | |
| | | <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | |
| | | | FEDERAL TAX SUITS | |
| | | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | |
| | | | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |
| | | | IMMIGRATION | |
| | | | <input type="checkbox"/> 462 Naturalization Application | |
| | | | <input type="checkbox"/> 465 Other Immigration Actions | |

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
 21 U.S.C. §§ 801-971

VI. CAUSE OF ACTION

Brief description of cause:
Unlawful prescribing of controlled substances/Violations of the Controlled Substances Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

1. General Civil
2. Administrative Review/Social Security
3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is RELATED to another PENDING civil case is a REFILED case was PREVIOUSLY REMANDED

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county
COUNTY: Cuyahoga

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- AKRON
 CLEVELAND
 YOUNGSTOWN

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)

(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

- TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
for the
Northern District of Ohio

)
)
)
UNITED STATES OF AMERICA)

Plaintiff(s))
)
)
 v.)
)
)
)
MICHAEL D. HARRINGTON, M.D.)

Defendant(s))

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Michael D. Harrington, M.D.
2472 Tremont Ave.
Cleveland, OH 44113

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Patricia M. Fitzgerald, Assistant U.S. Attorney
United States Attorney's Office
801 W. Superior Avenue, Suite 400
Cleveland, OH 44113

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____
was received by me on (*date*) _____.

- I personally served the summons on the individual at (*place*) _____
on (*date*) _____; or
- I left the summons at the individual's residence or usual place of abode with (*name*) _____,
_____, a person of suitable age and discretion who resides there,
on (*date*) _____, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) _____, who is
designated by law to accept service of process on behalf of (*name of organization*) _____
on (*date*) _____; or
- I returned the summons unexecuted because _____; or
- Other (*specify*): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc: